

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

Adopted Rules

■ FIREFIGHTERS

The OFFICE OF THE STATE FIRE MARSHAL adopted amendments to Policy and Procedures Manual for Fire Protection Personnel (41 IAC 141; 45 Ill Reg 3291) effective 8/31/21, updating training requirements and certification criteria for various firefighter positions, ranks and titles. Certification as a Company Fire Officer, Advanced Fire Officer, Fire Inspector I, Fire Investigator, or Arson Investigator, or in hazardous materials operations or rope operations, requires meeting or exceeding the standards set by the National Fire Protection Association (NFPA). For Company and Advanced Fire Officers, this includes completion of 40 Phase I instructional hours (in person or online) and 80 Phase II instructional hours (must be in person). Beginning 1/1/22, recertification will be required every 4 years for 29 additional

COVID-19 ACTIONS

Executive Orders of the Governor concerning the COVID-19 public health emergency can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

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ranks/titles (previously, only Fire Investigator and Arson Investigator required recertification); the rulemaking outlines the recertification process. Since 1st Notice, in response to public comment, OSFM has clarified that ranks and titles not recertified by the deadline remain valid, but not current. Level-specific certifi-

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Emergency Rulemaking

■ BUSINESS ASSISTANCE

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY adopted a new Part by emergency rulemaking titled Back to Business Program (14 IAC 691; 45 Ill Reg 11616), effective 9/1/21 for a maximum of 150 days. Identical proposed amendments appear in this week's *Illinois Register* at 45 Ill Reg 11456. The emergency and proposed rules implement the Back to Business (B2B) Grant Program, authorized by PA 102-16 and 102-17 to provide financial support to businesses and non-profit organizations adversely affected by the COVID-19 public health emergency. Businesses and organizations that were established prior to the pandemic or were started on or after 3/1/20 amid adverse conditions created

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ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.
PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.
PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.
■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.
QUESTIONS/COMMENTS: Submit mail, email or phone calls to the agency personnel listed below each summary.
RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

Adopted Rules

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cations other than Fire Investigator and Arson Investigator that require recertification before 1/1/22 will remain in effect through 12/31/25. Other changes since 1st Notice clarify the title recertification process and which “historical” titles are equivalent to current titles. Local fire departments will be affected by this rulemaking.

Questions/requests for copies: Nancy Robinson, OSFM, 1035 Stevenson Drive, Springfield IL 62703, 217/785-7629.

■ PRESCHOOLS

The CAPITAL DEVELOPMENT BOARD adopted amendments to Early Childhood Construction Grant Rules (71 IAC 43; 45 Ill Reg 6614) effective 9/3/21, providing additional criteria for eligibility, evaluation, and award of Early Childhood Construction Grants; restrictions on the use of grant funds and properties purchased, constructed or improved with grant funds; and the incorporation of requirements under the Grant

Accountability and Transparency Act (GATA) and the federal Uniform Grant Requirements referenced in GATA. Applicants for grants must meet GATA requirements, enter into a Uniform Grant Agreement, demonstrate that they have required matching funds, and show that the facility for which the grant is sought will continue to be used as an early childhood center for at least 10 years after the construction project is completed. If the grantee stops using that facility as an early childhood center in less than 10 years, the grantee shall refund to CDB a prorated portion of the grant funds for each month of noncompliance. If a school district with a population of at least 500,000 submits an application for these grants, at least 20% of the total grants awarded will be made to that district. Additional criteria for and examples of equipment that may be purchased with grant funds are included. Non-profit organizations that sponsor early childhood programs may be affected.

Questions/requests for copies: Lauren Noll, CDB, 401 S. Spring

St., 3rd Fl. Stratton Bldg., Springfield IL 62706, 312/771-3443, fax 217/524-0565.

VEHICLE USE TAX

The DEPARTMENT OF REVENUE adopted amendments to Vehicle Use Tax (86 IAC 151; 45 Ill Reg 6159), effective 9/1/21, clarifying two aspects of the Illinois Vehicle Title & Registration Law as it applies to private sales/transfers. The rulemaking establishes that the \$15 transfer/purchase tax applied when a vehicle is sold or transferred between immediate family members also applies when the vehicle transfer is between divorcing spouses and the transfer is made no later than 90 days after the divorce becomes final. The rulemaking also clarifies that the transferee in a private sales/transfer transaction has 30 days to file a return and pay the applicable tax.

Questions/requests for copies: Richard S. Wolters, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

Emergency Rulemaking

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by the COVID-19 emergency are eligible for the program, as are self-employed individuals and independent contractors operating as sole proprietors. Eligible businesses must have an annual gross income of \$20 million or less (\$35 million or less for hotels); if the business was in operation at the end of 2019, it must have

earned at least \$5,000 less in gross income in 2020 than it did in 2019. Allowable expenditures covered by B2B grants, subsidies or reimbursements must be incurred between 3/1/20 and 12/31/24 and may include costs to hire or retain employees; mortgage, rent or utility costs; costs of COVID-19 prevention or mitigation (e.g., construction of barriers or partitions, physical plant

alterations to accommodate social distancing, enhanced cleaning efforts); and related expenses outlined in U.S. Department of the Treasury guidance and the federal American Rescue Plan Act (ARPA). Priority will be given to small businesses and disproportionately impacted areas (determined by DCEO based on

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Proposed Rulemakings

■ WORKPLACE SAFETY

The DEPARTMENT OF LABOR proposed amendments to the Part titled Health and Safety (56 IAC 350; 45 Ill Reg 11485) reflecting updates to the Occupational Health and Safety Act [820 ILCS 219], which applies to all public employers in Illinois (including counties, townships, municipalities, school districts and public colleges/universities). The rulemaking clarifies the inspection and enforcement process for these employers; reflects the redesignation of the DOL Safety Inspection and Education Division as the DOL Division of Occupational Safety and Health (Illinois OSHA); details employer recordkeeping and reporting requirements; and requires

employers to keep a log of work-related injuries, illnesses and deaths and submit reports electronically. Municipalities, school districts and other public bodies may be affected by this rulemaking.

Questions/requests for copies/ comments through 11/1/21: Jason Keller, DOL, 524 S. 2nd St., Springfield IL 62701, 217/782-1706, Jason.keller@illinois.gov

■ PHARMACIES

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to Medical Payment (89 IAC 140; 45 Ill Reg 11458) establishing, for dates of service on or after 7/15/19, a professional

dispensing fee of \$15.55 for Critical Access Pharmacies (CAPs), which must be brick and mortar pharmacies located in Illinois counties of fewer than 50,000 residents; whose owners have ownership interest in fewer than 10 pharmacies; that serve customers in person and conduct the majority of their business in person (rather than online or by mail); and are not owned by or located in a hospital. The rulemaking also raises professional dispensing fees for non-CAP pharmacies to \$8.85. (Currently, HFS dispensing fees are \$5.50 for generic drugs and \$2.40 for brand name drugs.) The rulemaking also establishes the maximum reimbursement rate for

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Emergency Rulemaking

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numbers or rates of COVID-19 infection and indicators of high poverty or unemployment; at least 40% of B2B funding will be allocated to these areas). DCEO may also provide targeted funding opportunities for industries and businesses most impacted by the pandemic itself or by COVID-19 prevention directives (e.g., indoor capacity restrictions, social distancing). Assistance may also be targeted to businesses that have experienced substantial declines in gross receipts or other economic harm due to the pandemic, as well as businesses with less capacity to weather financial hardship (e.g., smallest

businesses, those with less access to credit, those serving disadvantaged communities). DCEO may also prioritize funding for an industry or business district not enumerated in ARPA; if it does so, it will compile an assessment outlining how that industry or district was affected in comparison to industries that are included in ARPA and will maintain this assessment for 5 years. DCEO will determine whether to provide targeted funding opportunities based on an ongoing assessment of business community needs and will announce any targeted funding opportunities on its website. The grant application, review and payment process is subject to the Grant Accountability and

Transparency Act (GATA). Grants may also be awarded to qualified partners (financial institutions or non-profit organizations) who will in turn assist affected businesses and organizations. The rulemaking also outlines application, reporting and recordkeeping procedures and lists types of businesses that are excluded from B2B funding. Small businesses and non-profit agencies impacted by the COVID-19 emergency are affected by this emergency rule.

Questions/requests for copies/ comments on the proposed rulemaking through 11/1/21: Jolene Clarke, DCEO, 500 E. Monroe St., Springfield IL 62701, jolene.clarke@illinois.gov

Proposed Rulemakings

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prescription drugs as the lowest of: wholesale acquisition cost minus 4.4%, 10%, or 17.5% depending on the type of drug; the National Average Drug Acquisition Cost, if available; the federal upper limit; or the State upper limit. Finally, the rulemaking removes the 30-day limit on prescription quantities. Pharmacies are affected by this rulemaking.

Questions/requests for copies/ comments through 11/1/21: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, HFS.Rules@illinois.gov

STATE OFFICES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed

amendments to Acquisition, Management and Disposal of Real Property (44 IAC 5000; 45 Ill Reg 11449) that eliminate a requirement for State agencies to file annual space utilization plans with DCMS and remove language encouraging agencies to give at least 6 months advance notice of space needs not included in the annual plan. Agencies will be allowed to file space plans and requests as needed.

Questions/requests for copies/ comments through 11/1/21: Sean Coombe, DCMS, 720 Stratton Bldg., Springfield IL 62706, 217/ 557-3761, sean.coombe@illinois.gov

STATE POLICE RANKS

The ILLINOIS STATE POLICE MERIT BOARD proposed amendments to Procedures of the

Department of State Police Merit Board (80 IAC 150; 45 Ill Reg 11555) that remove references to the promotion testing process for the rank of Major. Other changes add an assessment exercise component to the Sergeant promotional examination and clarify, for purposes of the bachelor's degree requirement for the ranks of Lieutenant and Captain, the regional agencies that must accredit the college or university from which the degree was earned.

Questions/requests for copies/ comments through 11/1/21: Daniel Dykstra, ISPMB, 531 E. Sangamon Ave., Springfield IL 62702, fax: 217/786-0181, ddykstra@ispmeritboard.org

**NO SECOND NOTICES
THIS WEEK**

JCAR Meeting Action

At its Sept. 14, 2021 meeting, the Joint Committee on Administrative Rules took the actions listed below. All other rulemakings on the agenda received No Objection. The next JCAR meeting is scheduled for Tuesday, Oct. 19, in Springfield.

RECOMMENDATION

JCAR approved the following Recommendation concerning the Illinois State Board of Education's revocation of recognition from public and private schools that do not implement the COVID-19 mitigation measures of Executive Order 21-18 requiring all K-12 students to wear masks and all schools to adhere to guidance issued by ISBE and the Department of Public Health:

After hearing testimony today, there is a concern that policy outside of rule may exist and JCAR encourages ISBE to place all policy and guidance in administrative rule. JCAR recommends that ISBE provide an update to the Committee on this point within 30 days. Additionally, JCAR recommends that ISBE propose additional amendments to 23 IAC 425 (Voluntary Registration and Recognition of Nonpublic Schools) expanding and clarifying the school recognition process to include a better defined process prior to revoking a school's recognition.

WITHDRAWAL OF SUSPENSIONS

JCAR withdrew its Suspensions of the Department of Financial and Professional Regulation's emergency rulemaking titled Cannabis Regulation and Tax Act (68 IAC 1291; 45 Ill Reg 9586) and the Department of Revenue's emergency rulemaking titled Leveling the Playing Field for Illinois Retail Act (86 IAC 131; 45 Ill Reg 9625) contingent upon, and effective with, the respective agencies adopting the agreed-upon modifications to these emergency rules.

EXTENSIONS

JCAR and the Secretary of State agreed to extend the Second Notice periods for the rulemakings titled Procedures and Standards (92 IAC 1001; 44 Ill Reg 17902) and Certificates of Title, Registration of Vehicles (92 IAC 1010; 45 Ill Reg 6641) an additional 45 days. These rulemakings will be considered again at JCAR's Oct. 19 meeting.

POSTPONEMENT

JCAR postponed action on the Illinois Gaming Board rulemaking titled Riverboat and Casino Gambling (86 IAC 3000; 45 Ill Reg 6565), currently on extended Second Notice, until the Oct. 19 meeting.

Joint Committee on Administrative Rules

Senator Bill Cunningham, *co-chair*
Senator John F. Curran
Senator Donald DeWitte
Senator Kimberly Lightford
Senator Tony Muñoz
Senator Sue Rezin

Representative Tom Demmer
Representative Michael Halpin
Representative Frances Ann Hurley
Representative Steven Reick
Representative Curtis Tarver, II
Representative Keith Wheeler, *co-chair*

Kim Schultz
Executive Director